

Article 6.

Special Provisions.

Part 1. Camp Butner and Community of Butner.

**§ 122C-401. Use of Camp Butner Hospital authorized.**

The State may use the Camp Butner Hospital, including buildings, equipment, and land necessary for the operation of modern up-to-date facilities for the care and treatment of citizens of this State. (1947, c. 789, s. 2; 1963, c. 1166, s. 10; 1973, c. 476, s. 133; 1985, c. 589, s. 2.)

**§ 122C-402. Application of State highway and motor vehicle laws at State institutions on Camp Butner reservation.**

The provisions of Chapter 20 of the General Statutes relating to the use of the highways of the State and the operation of motor vehicles thereon are made applicable to the streets, alleys, and driveways on the Camp Butner reservation that are on the grounds of any State facility or any State institution operated by the Department or by the Division of Adult Correction and Juvenile Justice of the Department of Public Safety. Any person violating any of the provisions of Chapter 20 of the General Statutes in or on these streets, alleys, or driveways shall upon conviction be punished as prescribed in that Chapter. This section does not interfere with the ownership and control of the streets, alleys, and driveways on the grounds as is now vested by law in the Department. (1949, c. 71, s. 2; 1955, c. 887, s. 1; 1959, c. 1028, s. 4; 1963, c. 1166, s. 10; 1973, c. 476, s. 133; 1985, c. 589, s. 2; 2011-145, s. 19.1(h); 2017-186, s. 2(qqqqq).)

**§ 122C-403. Secretary's authority over Camp Butner reservation.**

The Secretary shall administer the Camp Butner reservation except (i) those areas within the municipal boundaries of the Town of Butner and (ii) that portion of the Town of Butner's extraterritorial jurisdiction consisting of lands not owned by the State of North Carolina. In performing this duty, the Secretary has the powers listed below. In exercising these powers the Secretary has the same authority and is subject to the same restrictions that the governing body of a city would have and would be subject to if the reservation was a city, unless this section provides to the contrary. The Secretary may:

- (1) Regulate airports on the reservation in accordance with the powers granted in Article 4 of Chapter 63 of the General Statutes.
- (2) Take actions in accordance with the general police power granted in Article 8 of Chapter 160A of the General Statutes.
- (3) Regulate the development of the reservation in accordance with the powers granted in Article 19, Parts 2, 3, 3C, 5, 6, and 7, of Chapter 160A of the General Statutes. The Secretary may not, however, grant a special use permit, a conditional use permit, or a special exception under Part 3 of that Article. In addition, the Secretary is not required to notify landowners of zoning classification actions under G.S. 160A-384, but the Secretary shall give the mayor of the Town of Butner at least 14 days' advance written notice of any proposed zoning change. The Secretary may designate Advisory establish a

board to act like a Board of Adjustment to make recommendations to the Secretary concerning implementation of plans for the development of the reservation. When acting as a Board of Adjustment, Advisory that board shall be subject to subsections (b), (c), (d), (f), and (g) of G.S. 160A-388.

- (4) Establish one or more planning agencies in accordance with the power granted in G.S. 160A-361.
- (5) Regulate streets, traffic, and parking on the reservation in accordance with the powers granted in Article 15 of Chapter 160A of the General Statutes.
- (6) Control erosion and sedimentation on the reservation in accordance with the powers granted in G.S. 160A-458 and Article 4 of Chapter 113A of the General Statutes.
- (7) Contract with and undertake agreements with units of local government in accordance with the powers granted in G.S. 160A-413 and Article 20, Part 1, of Chapter 160A of the General Statutes.
- (8) Regulate floodways on the reservation in accordance with the powers granted in G.S. 160A-458.1 and Article 21, Part 6, of Chapter 143 of the General Statutes.
- (8a) Repealed by Session Laws 2007-269, s. 4. For effective date, see editor's note.
- (9) Assign duties given by the statutes listed in the preceding subdivisions to a local official to the Secretary's designee.
- (9a) Repealed by Session Laws 2007-269, s. 4. For effective date, see editor's note.
- (10) Adopt rules to carry out the purposes of this Article. (1949, c. 71, s. 3; 1955, c. 887, s. 1; 1959, c. 1028, s. 4; 1963, c. 1166, s. 10; 1965, c. 933; 1973, c. 476, s. 133; 1985, c. 589, s. 2; 1987, c. 536, s. 2; 1995 (Reg. Sess., 1996), c. 667, s. 3; 1997-59, s. 5; 1997-443, s. 11A.118(a); 1999-140, s. 4; 2007-269, s. 4; 2015-160, s. 3.)

**§ 122C-404: Repealed by Session Laws 1995 (Regular Session, 1996), c. 667, s. 4.**

**§ 122C-405. Procedure applicable to rules.**

Rules adopted by the Secretary under this Article shall be adopted in accordance with the procedures for adopting a city ordinance on the same subject, shall be subject to review in the manner provided for a city ordinance adopted on the same subject, and shall be enforceable in accordance with the procedures for enforcing a city ordinance on the same subject. Violation of a rule adopted under this Article is punishable as provided in G.S. 122C-406.

Rules adopted under this Article may apply to part or all of the Camp Butner Reservation, except those areas within the municipal boundaries of the Town of Butner and that portion of the Town of Butner's extraterritorial jurisdiction consisting of lands not owned by the State of North Carolina. If a public hearing is required before the adoption of a rule, Advisory the Secretary shall designate one or more employees of the Department to conduct the hearing. The Butner Town Council shall receive at least 14 days' advance written notice of any public hearing with all correspondence concerning such public hearings to be directed to the mayor of the Town of Butner and sent by certified mail, return receipt requested, or equivalent delivery service to Butner Town Hall. (1949, c. 71, s. 4; 1963, c. 1166, s. 10; 1973, c. 476, s. 133; 1981, c. 614, s. 6; 1985, c. 589,

s. 2; 1987, c. 536, s. 4; c. 720, s. 3; 1995 (Reg. Sess., 1996), c. 667, s. 5; 1997-59, s. 6; 1999-140, s. 5; 2007-269, s. 5.)

**§ 122C-406. Violations made misdemeanor.**

A person who violates an ordinance or rule adopted under this Part is guilty of a Class 3 misdemeanor. (1949, c. 71, s. 5; 1985, c. 589, s. 2; 1993, c. 539, s. 927; 1994, Ex. Sess., c. 24, s. 14(c).)

**§ 122C-407. Water and sewer system.**

(a) The Department may acquire, construct, establish, enlarge, maintain, operate, and contract for the operation of a water supply and distribution system and a sewage collection and disposal system for the Camp Butner Reservation, and may enter into such contracts, memoranda of understanding, and other agreements with other persons or entities, including, but not limited to, local governments, authorities, and private enterprises, reasonably necessary to extend or otherwise provide water and sewer service to any portion of the Camp Butner Reservation.

(b) Those things authorized by subsection (a) of this section may be operated for the benefit of persons and property within the Camp Butner reservation and areas outside the reservation within reasonable limitations specifically including any sanitary district, water and sewer authority, county water and sewer district, or municipality in Durham or Granville Counties.

(c) The Secretary may fix and enforce water and sewer rates and charges in accordance with G.S. 160A-314 as if it were a city. (1985, c. 589, s. 2; 2007-269, s. 6.)

**§ 122C-408. Former Butner Public Safety Authority; jurisdiction; fire and police protection.**

(a) Police and Fire Protection. – The Town of Butner may contract with the State of North Carolina or any state agency for the provision of special police officers or fire protection or both to any State or federal institution or lands within the territory of the Camp Butner Reservation. The territorial jurisdiction of these officers shall consist of the property shown on a map produced May 20, 2003, by the Information Systems Division of the North Carolina General Assembly and kept on file in the office of the Butner Town Manager and such additional areas which are within the incorporated limits of the Town of Butner as shown on a map to be kept in the office of the Butner Town Manager.

(b) Authority of Special Police Officers. – In order to assist the Town of Butner in providing contractual services to State agencies and facilities within the territorial jurisdiction set out in subsection (a) of this section, the officers providing police services to the Town of Butner shall have the additional authority set out in this subsection. After taking the oath of office required for law-enforcement officers, the special police officers authorized by this section shall have the authority of deputy sheriffs of Durham and Granville Counties in those counties respectively. Within the territorial jurisdiction stated in subsection (a) of this section, the special police officers have the authority to enforce the laws of North Carolina, the ordinances of the Town of Butner, and any rule applicable to the Camp Butner Reservation adopted under authority of this Part or under G.S. 143-116.6 or G.S. 143-116.7 or under the authority granted any other agency of the State and also

have the powers set forth for firemen in Articles 80, 82, and 83 of Chapter 58 of the General Statutes. Notwithstanding the foregoing, the Town of Butner has no obligation or responsibility to provide law enforcement or fire protection services outside of the corporate limits of the Town of Butner except pursuant to a contract with a State agency or facility, a federal entity, or a private person or entity. In the event that any State agency contracts with the Town of Butner for police services at any facility within the territorial jurisdiction described in subsection (a) of this section, any civil or criminal process to be served on any individual confined at any such State facility may be forwarded by the sheriff of the county in which the process originated to the director or chief of the Town of Butner's law enforcement department or that officer's designee. (1949, c. 71, s. 6; 1955, c. 887, s. 1; 1959, c. 35; c. 1028, s. 4; 1963, c. 1166, s. 10; 1973, c. 476, s. 133; 1981, c. 491, s. 1; c. 964, s. 19; c. 1127, s. 49; 1983, c. 761, s. 165; 1985, c. 589, s. 2; 1987, c. 827, s. 246; 1989, c. 141, s. 16; 2003-346, s. 2; 2007-269, s. 7; 2011-145, ss. 19.1(g), (jj), 19.3(b); 2011-260, ss. 1, 6(a), (b); 2011-391, s. 43(m); 2012-50, ss. 1-3; 2013-360, s. 16B.4(b).)

**§ 122C-409. Community of Butner comprehensive emergency management plan.**

The Department of Public Safety shall establish an emergency management agency as defined in G.S. 166A-19.3(9) for the Camp Butner Reservation, and the Town of Butner. (1985, c. 589, s. 2; 2007-269, s. 8; 2011-145, s. 19.1(g); 2012-12, s. 2(r).)

**§ 122C-410. Authority of county or city over Camp Butner Reservation; zoning jurisdiction by Town of Butner over State lands.**

(a) A municipality other than the Town of Butner may not annex territory extending into or extend its extraterritorial jurisdiction into the Camp Butner reservation without written approval from the Secretary and the Butner Town Council of each proposed annexation or extension. The Town of Butner may not annex territory extending into or extend its extraterritorial jurisdiction into those portions of the Camp Butner Reservation owned by the State of North Carolina without written approval from the Secretary of each proposed annexation or extension. The procedures, if any, for withdrawing approval granted by the Secretary to an annexation or extension of extraterritorial jurisdiction shall be stated in the notice of approval.

(b) A county ordinance may apply in part or all of the Camp Butner reservation (other than areas within the Town of Butner) if the Secretary gives written approval of the ordinance, except that ordinances adopted by a county under Article 18 of Chapter 153A of the General Statutes may not apply in the extraterritorial jurisdiction of the Town of Butner without approval of the Butner Town Council. The Secretary may withdraw approval of a county ordinance by giving written notification, by certified mail, return receipt requested, to the county. A county ordinance ceases to be effective in the Camp Butner reservation 30 days after the county receives the written notice of the withdrawal of approval. This section does not enhance or diminish the authority of a county to enact ordinances applicable to the Town of Butner and its extraterritorial jurisdiction.

(c) Notwithstanding any other provision of this Article, no portion of the lands owned by the State as of September 1, 2007, which are located in the extraterritorial jurisdiction or the incorporated limits of the Town of Butner shall be subject to any of the powers granted to the Town of Butner pursuant to Article 19 of Chapter 160A of the General Statutes except as to property no longer owned by the State. If any portion of such property owned by the State of North

Carolina as of September 1, 2007, is no longer owned by the State, the Town of Butner may exercise all legal authority granted to the Town pursuant to the terms of its charter or by Article 19 of Chapter 160A of the General Statutes and may do so by ordinances adopted prior to the actual date of transfer. Before the State shall dispose of any property inside the incorporated limits of the Town of Butner or any of that property currently under the control of the North Carolina Department of Health and Human Services or the North Carolina Department of Agriculture and Consumer Services within the extraterritorial jurisdiction of the Town of Butner, southeast of Old Highway 75, northeast of Central Avenue, southwest of 33rd Street, and northwest of "G" Street, by sale or lease for any use not directly associated with a State function, the Town of Butner shall first be given the right of first refusal to purchase said property at fair market value as determined by the average of the value of said property as determined by a qualified appraiser selected by the Secretary and a qualified appraiser selected by the Town of Butner. (1987, c. 536, s. 5; 2007-269, s. 9.)

**§ 122C-411:** Repealed by Session Laws 2011-260, s. 2, effective June 23, 2011.

**§ 122C-411.1:** Repealed by Session Laws 1996, Second Extra Session, c. 18, s. 21.4.

Part 1A. Butner Planning Council.

**§ 122C-412. Repealed.**

**§ 122C-412.1. Repealed.**

**§ 122C-412.2. Repealed.**

**§ 122C-413:** Repealed by Session Laws 2007-269, s. 10. For effective date, see Editor's note.

**§ 122C-413.1:** Repealed by Session Laws 2007-269, s. 10. For effective date, see Editor's note.

Part 1D. Butner Commissions.

**§ 122C-414:** Repealed by Session Laws 2011-260, s. 2, effective June 23, 2011.

**§ 122C-415:** Repealed by Session Laws 2011-266, s. 1.5, effective July 1, 2011.

**§ 122C-416. Reserved for future codification purposes.**

**§ 122C-417. Reserved for future codification purposes.**

**§ 122C-418. Reserved for future codification purposes.**

**§ 122C-419. Reserved for future codification purposes.**

**§ 122C-420. Reserved for future codification purposes.**

Part 2. Black Mountain Joint Security Force.

**§ 122C-421. Joint security force.**

(a) The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Black Mountain Center, the Alcohol Rehabilitation Center, and the Juvenile Evaluation Center, all in Buncombe County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory embraced by the named centers. These special police officers shall also have the power prescribed by G.S. 7B-1900 outside the territory embraced by the named centers but within the confines of Buncombe County. These special police officers may arrest persons outside the territory of the named centers but within the confines of Buncombe County when the person arrested has committed a criminal offense within that territory, for which the officers could have arrested the person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory.

(b) These special police officers may exercise any and all of the powers enumerated in this Part upon or in pursuit from the property formerly occupied by the Black Mountain Center and transferred to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety by Senate Bill 388 and House Bill 709 of the 1985 Session of the General Assembly. These special police officers shall exercise said powers upon the property transferred to the Division of Adult Correction and Juvenile Justice of the Department of Public Safety only by agreement of the Division of Adult Correction and Juvenile Justice of the Department of Public Safety and the Department of Health and Human Services. (1983 (Reg. Sess., 1984), c. 1116, s. 30; 1985, c. 408, ss. 3, 5; c. 589, s. 2; 1995, c. 391, s. 3; 1997-320, s. 2; 1997-443, s. 11A.118(a); 1998-202, s. 13(gg); 2011-145, s. 19.1(h); 2017-186, s. 2(rrrrr).)

**§§ 122C-422 through 122C-429. Reserved for future codification purposes.**

Part 2A. Broughton Hospital Joint Security Force.

**§ 122C-430. Joint security force.**

The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Broughton Hospital, North Carolina School for the Deaf at Morganton (K-12), Western Regional Vocational Rehabilitation Facility, J. Iverson Riddle Developmental Center, and the surrounding grounds and land adjacent to Broughton Hospital allocated to the Department of Agriculture and Consumer Services, all in Burke County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory embraced by the named facilities. These special police officers may arrest persons outside the territory of the named institutions but within the confines of Burke County when the person arrested has committed a criminal offense within that territory for which the officers could have arrested the person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory. (1997-320, s. 1; 2007-177, s. 3; 2008-187, s. 30.)

#### Part 2B. Cherry Hospital Joint Security Force.

##### **§ 122C-430.10. Joint security force.**

The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Cherry Hospital in Wayne County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory of the Cherry Hospital. These special police officers shall also have the power prescribed by G.S. 122C-205 outside the territory of the Cherry Hospital but within the confines of Wayne County. These special police officers may arrest persons outside the territory of the Cherry Hospital but within the confines of Wayne County, when the person arrested has committed a criminal offense within the territory of the Cherry Hospital, for which the officers could have arrested the person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory. (2001-125, s. 1.)

#### Part 2C. Dorothea Dix Hospital Joint Security Force.

##### **§ 122C-430.20. Joint security force.**

The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Dorothea Dix Hospital in Wake County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory of the Dorothea Dix Hospital. These special police officers shall also have the power prescribed by G.S. 122C-205 outside the territory of the Dorothea Dix Hospital but within the confines of Wake County. These special police officers may arrest persons outside the territory of the Dorothea Dix Hospital but within the confines of Wake County, when the person arrested has committed a criminal offense within the territory of the Dorothea Dix Hospital, for which the officers could have arrested the

person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory. (2001-125, s. 1.)

Part 2D. Long Leaf Neuro-Medical Treatment Center and Eastern North Carolina School for the Deaf Joint Security Force.

**§ 122C-430.30. Joint security force.**

The Secretary may designate one or more special police officers who shall make up a joint security force to enforce the law of North Carolina and any ordinance or regulation adopted pursuant to G.S. 143-116.6 or G.S. 143-116.7 or pursuant to the authority granted the Department by any other law on the territory of the Long Leaf Neuro-Medical Treatment Center and the Eastern North Carolina School for the Deaf in Wilson County. After taking the oath of office for law enforcement officers as set out in G.S. 11-11, these special police officers have the same powers as peace officers now vested in sheriffs within the territory embraced by the named facilities. These special police officers may arrest persons outside the territory of the named institutions but within the confines of Wilson County when the person arrested has committed a criminal offense within that territory for which the officers could have arrested the person within that territory, and the arrest is made during the person's immediate and continuous flight from that territory. (2009-315, s. 3.)

Part 3. North Carolina Alcoholism Research Authority.

**§ 122C-431. North Carolina Alcoholism Research Authority created.**

(a) The North Carolina Alcoholism Research Authority is created and shall consist of and be governed by a nine-member board to be appointed by the Governor. Three of the members shall be appointed for a two-year term, three shall be appointed for a four-year term and three shall be appointed for a six-year term; thereafter all appointments shall be for terms of six years. Any vacancy occurring in the membership of the board shall be filled by the Governor for the unexpired term.

(b) The board shall elect one of its members as chairman and one as vice-chairman. The director of the Center for Alcohol Studies of The University of North Carolina at Chapel Hill shall serve ex officio as executive secretary to the Authority. Board members shall receive the same per diem, subsistence, and travel allowances as members of similar State boards and commissions, provided funds are available in the "Alcoholism Research Fund" for this purpose. (1973, c. 682, ss. 1, 2; 1985, c. 589, s. 2.)

**§ 122C-432. Authorized to receive and spend funds.**

The Authority may receive funds from State, federal, private, or other sources. These funds shall be held separately and designated as the "Alcoholism Research Fund". The Authority shall spend the Fund on research as to the causes and effects of alcohol abuse and alcoholism and for the training of alcohol research personnel. Expenditures for the purposes specified in this section shall be made as grants to nonprofit corporations, organizations, agencies, or institutions engaging in such research or training. The Authority may also pay necessary administrative expenses from the Fund. (1973, c. 682, s. 3; 1985, c. 589, s. 2.)

**§ 122C-433. Applications for grants; promulgation of rules.**

(a) Applications for grants are processed by the Center for Alcohol Studies. All applications shall be reviewed by scientific consultants to the Center; and the Center, after review and study, shall make recommendations to the Authority as to the awarding of grants. The Center shall also furnish to the Authority clerical assistance as may be required.

(b) The Authority shall adopt rules relative to applications for grants, the reviewing of grants and awarding of grants. (1973, c. 682, ss. 4, 5; 1985, c. 589, s. 2.)

**§ 122C-434:** Reserved for future codification purposes.

**§ 122C-435:** Reserved for future codification purposes.

**§ 122C-436:** Reserved for future codification purposes.

**§ 122C-437:** Reserved for future codification purposes.

**§ 122C-438:** Reserved for future codification purposes.

**§ 122C-439:** Reserved for future codification purposes.

**§ 122C-440:** Reserved for future codification purposes.

**§ 122C-441:** Reserved for future codification purposes.

**§ 122C-442:** Reserved for future codification purposes.

**§ 122C-443:** Reserved for future codification purposes.

**§ 122C-444:** Reserved for future codification purposes.

**§ 122C-445:** Reserved for future codification purposes.

**§ 122C-446:** Reserved for future codification purposes.

**§ 122C-447:** Reserved for future codification purposes.

§ 122C-448: Reserved for future codification purposes.

§ 122C-449: Reserved for future codification purposes.

#### Part 4. Educational Services in Private Psychiatric Residential Treatment Facilities.

##### § 122C-450. Definitions.

The following definitions apply in this Part:

- (1) "Educational services" means appropriate education-related assessment and instruction provided to any child residing in a private psychiatric residential treatment facility, including special education and related services to a child with a disability as defined in G.S. 115C-106.3(1). An education-related assessment includes the determination of need for special education and related services.
- (2) "Nonpublic Exceptional Children's Program" means a facility-based school that meets all of the following criteria:
  - a. Provides at least one teacher for every 14 students. The PRTF shall report exceptions to this requirement to (i) the Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (MH/DD/SAS) to request additional funding for educational services as provided under G.S. 122C-451(d) to the extent that funds are available and, if funds are not available, (ii) the Department of Public Instruction to request a waiver from this requirement.
  - b. Provides at least one teacher with a North Carolina Professional Educator license in special education, if there is a child with a disability as defined in G.S. 115C-106.3(1) residing in the PRTF.
  - c. Registers with the Department of Administration, Division of Nonpublic Schools, under Article 39 of Chapter 115C of the General Statutes.
  - d. Has been approved by the Department of Public Instruction to provide educational services as promulgated by the rules adopted by the State Board of Education pursuant to the Administrative Procedures Act.
- (3) "Private psychiatric residential treatment facility" (PRTF) means a facility, other than a hospital, that provides psychiatric and other behavioral health services as described in Subpart D of C.F.R. Part 441 of Chapter 42 to individuals under age 21 in an inpatient setting licensed by the Department of Health and Human Services as provided under Chapter 122C of the General Statutes. A PRTF does not include a State-operated facility. (2014-100, s. 8.39(e).)

##### § 122C-451. Eligibility and allocations.

(a) A child who is receiving psychiatric and other behavioral health services in a PRTF shall also receive educational services in accordance with federal and State law, if the child is eligible to enroll in public schools as provided in G.S. 115C-366, including a

student who has been suspended or expelled but otherwise meets the requirements of that statute. For a child with a disability, as defined in G.S. 115C-106.3(1), who has been placed in a PRTF, all educational services shall meet applicable standards as required under Article 9 of Chapter 115C of the General Statutes.

(b) A PRTF shall be qualified to receive a funding allocation, to the extent that funds are available from the Department of Health and Human Services, to provide educational services if the following conditions are met:

- (1) The PRTF is licensed by the Department of Health and Human Services pursuant to Chapter 122C of the General Statutes and has a facility-based school approved by the Department of Public Instruction as a Nonpublic Exceptional Children's Program.
- (2) The PRTF documents deviations from educational and other programmatic requirements when it is medically necessary for a resident in accordance with G.S. 122C-62(e).

(c) A PRTF that meets the qualification standards required in subsection (b) of this section may enter into an educational services contract, to the extent that funds are available, with a local school administrative unit to assist in the delivery of educational services to the children in the PRTF. The contract shall clearly define the education-related assessment, instruction, and legal responsibilities of both parties engaging in the educational services contract. A PRTF entering into an educational services contract with a local school administrative unit shall submit the educational services contract to both the Department of Public Instruction and the Department of Health and Human Services for inclusion in any required reports to the General Assembly regarding the provision of educational services to children in PRTFs.

(d) To the extent that funds are available in the Department of Public Instruction for the delivery of educational services in PRTFs as provided in this Part, those funds shall be transferred to the Department of Health and Human Services, Division of Mental Health, Developmental Disabilities, and Substance Abuse Services (DMH/DD/SAS). The funds transferred for the purchase of educational services within the PRTF shall not be allocated to LME/MCOs but shall be held in reserve at the DMH/DD/SAS. The DMH/DD/SAS shall use the reserve funds to pay for educational services authorized by the Department of Public Instruction and billed by the PRTFs in a process established by the DMH/DD/SAS. The funds transferred to the DMH/DD/SAS pursuant to this section shall be allocated to the PRTFs for educational services in a manner determined by the Department of Health and Human Services and the Department of Public Instruction in a Memorandum of Understanding or a Memorandum of Agreement. The Department of Health and Human Services shall disburse for these purposes only those funds transferred from the Department of Public Instruction.

(e) The Department of Health and Human Services shall cease disbursement of educational funding to a PRTF upon receipt of a written notice from the Department of Public Instruction that educational services have not been provided. Educational funding disbursement shall be reinstated by the Department of Health and Human Services upon

written notice from the Department of Public Instruction that the PRTF is providing educational services.

(f) A PRTF that receives educational funding shall comply with all audit and accounting policies applicable to other public and private entities receiving public funding. (2014-100, s. 8.39(e).)

#### **§ 122C-452. Information sharing.**

(a) Within three business days of admitting a child into a PRTF, the admitting PRTF shall notify (i) the Department of Public Instruction and (ii) the local school administrative unit in which the child was last enrolled, if known. The PRTF shall request a copy of the child's most current Individualized Education Program and any other available documents related to the provision of appropriate educational services from the local school administrative unit. To the extent practicable, the local school administrative unit shall provide this information within three business days of receiving a request made pursuant to this subsection. Upon withdrawal or discharge of a child, the PRTF shall notify the Department of Public Instruction within three business days of such withdrawal or discharge.

(b) The PRTF and the receiving local school administrative unit shall work together to develop a transition plan, including a revised Individualized Education Program, if necessary, to be implemented upon discharge of the child residing in a PRTF. (2014-100, s. 8.39(e).)

#### **§ 122C-453. Technical assistance and monitoring.**

The State Board of Education and the Department of Public Instruction shall (i) offer training to PRTFs on compliance with special education laws and regulations, (ii) maintain a current list of names of children residing in PRTFs along with the name and contact information of the PRTF in which each child resides, and (iii) develop and implement rules to monitor the delivery of educational services in PRTFs, including a process to inform the Department of Health and Human Services when services are not being provided. The Department of Health and Human Services shall appropriately enforce applicable licensing requirements as provided under G.S. 122C-23.1. (2014-100, s. 8.39(e).)

#### **§ 122C-454. Reporting requirement.**

The Department of Health and Human Services and the Department of Public Instruction, in collaboration with other interested agencies, shall submit, by January 15 of each year, a joint report to the Joint Legislative Education Oversight Committee and to the Joint Legislative Oversight Committee on Health and Human Services on the delivery of educational services in PRTFs, including (i) the annual number of children by age residing in a PRTF both with and without an Individualized Education Program, (ii) the average length of stay of these children, (iii) the types of educational services, including number of hours each type of service has been provided, (iv) the costs and outcomes of providing

educational services, and (v) recommendations for improving the efficiency and effectiveness of delivering educational services to children residing in PRTFs. (2014-100, s. 8.39(e).)